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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,792	07/22/2003	Aldo Marra	126.01	7448

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,792

Applicant(s)

MARRA ET AL.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/12/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,770,451 to Souza.

After careful re-consideration of the reference, it's apparent that the magnet (142) is inserted in an area that is directly adjacent to the bolt, directly adjacent the strike plate and directly adjacent the door (when the device is arranged as shown in its door-locking position), even though the magnet may not be functionally required for the locking process. The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. Otherwise, one of ordinary skill in the art would recognize other broadly-recited steps to be taught by the reference where any of the protruding (with respect to its installed

position) parts of the lock anticipate "handle" limitation and are intended to be used for handling the lock in its intended use.

As regards claims 12,13, either of the large holes on left right sides (as shown in Fig 6, or the upper and lower fastener holes (on right side) read on "pair of apertures" limitation.

Allowable Subject Matter

3. Claims 7-10 are allowed.
4. It is suggested that the 'two pairs of apertures at one end' limitation be added to claim 11 as part of step of inserting for example.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not entirely persuasive.

The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. Further more, claims in a pending application should be given their broadest reasonable interpretation. In re

Pearson, 181 USPQ 641 (CCPA 1974). The reference inherently teaches all steps including "inserting a magnet *in an area directly adjacent to said bolt, directly adjacent to said strike plate*". Placing 136/142 into the door lock position inherently places the magnet very near the strike plate which one of ordinary skill in the art would recognize is in contact with the bolt. The language defining the steps and the arrangement are broad. For example, the term "adjacent" does not require direct contact but has art-accepted meaning as 'near by'. It is the examiner's position that all steps defining the present invention inherently occur as the device of the reference is placed into the door locked position.

The claim includes limitation that requires the magnet is inserted in an area "directly adjacent" the bolt but does not require the magnet to contact the bolt. In fact, the presently-disclosed magnet does not contact the bolt. Consequently, the term "directly adjacent to" must be interpreted broadly to read on the disclosed invention. However, in order to distinguish from the prior art, Applicant argues that the term "directly adjacent" must be interpreted more narrowly with respect to the strike plate, so as to require contact/engagement with the strike plate. While Applicant may *intend* some different, or some more particular interpretation of the different limitations, consistent interpretation of the claim language, consistent with plain meaning of the terms has not defined any particular step that can be relied upon to patentably distinguish from the teachings of the well known prior art in the same field of endeavor due to broad terms used to define the process of using. Arguments related to Souza

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'451's disclosure of a storage position are beside the point where that is not the grounds of rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
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